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REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SIXTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Oleksandr F. MOTSYK (Ukraine)

I. INTRODUCTION

1. The item entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session" was included in the provisional agenda of the forty-eighth session of the General Assembly pursuant to Assembly resolution 47/34 of 25 November 1992.

2. At its 3rd plenary meeting, on 24 September 1993, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the following documents:

(a) Report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session; 1/

(b) Report of the Secretary-General on the implementation of paragraphs 12 and 13 of General Assembly resolution 47/34 on granting travel assistance to delegates of developing countries (A/48/296).

4. The Sixth Committee considered the item at its 3rd, 4th and 33rd meetings, on 4 and 5 October and 19 November 1993. The summary records of those meetings (A/C.6/48/SR.3, 4 and 33) contain the views of the representatives who spoke on the item.

1/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17).

5. At the 3rd meeting, on 4 October, Mr. Sani L. Mohammed (Nigeria), Chairman of the United Nations Commission on International Trade Law at its twenty-sixth session, introduced the Commission's report on the work of that session. At the 4th meeting, on 5 October, the Chairman of the Commission made a closing statement.

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/48/L.6

6. At the 33rd meeting, on 19 November, the representative of Austria introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session" (A/C.6/48/L.6), sponsored by Argentina, Australia, Austria, Azerbaijan, Belarus, Brazil, Bulgaria, Canada, Cyprus, the Czech Republic, Denmark, Finland, France, Greece, Italy, Kyrgyzstan, Morocco, Myanmar, Norway, Poland, the Russian Federation, Singapore, Sweden, Thailand, Turkey, Ukraine and Venezuela, later joined by Germany, Hungary, Kenya, Nigeria and Spain.

7. At the same meeting, the Secretary of the Committee made a statement concerning paragraph 5 of the draft resolution (see A/C.6/48/SR.33).

8. Also at the same meeting, the Committee adopted draft resolution A/C.6/48/L.6 without a vote (see para. 14, draft resolution I).

B. Draft resolution A/C.6/48/L.7

9. At the 33rd meeting, the representative of Austria introduced a draft resolution entitled "Model Law on Procurement of Goods and Construction of the United Nations Commission on International Trade Law" (A/C.6/48/L.7), sponsored by Argentina, Australia Austria, Belarus, Canada, Cyprus, Denmark, France, Italy, Kyrgyzstan, Poland, the Russian Federation, Thailand, Ukraine and the United States of America, later joined by Germany, Hungary, Kenya, Nigeria and Spain.

10. At the same meeting, the Committee adopted draft resolution A/C.6/48/L.7 without a vote (see para. 14, draft resolution II).

C. Draft resolution A/C.6/48/L.8

11. At the 33rd meeting, the representative of Austria introduced a third draft resolution entitled "United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules)" (A/C.6/48/L.8), sponsored by Australia, Austria, Cyprus, Kyrgyzstan, Morocco, Sweden and Thailand, later joined by Hungary and Nigeria.

12. At the same meeting, the Committee adopted draft resolution A/C.6/48/L.8 without a vote (see para. 14, draft resolution III).

13. The representative of Japan made a statement in explanation of position after the adoption of the draft resolutions (see A/C.6/48/SR.33).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and from different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session, 2/

Mindful of the valuable contribution being rendered by the United Nations Commission on International Trade Law within the framework of the United Nations Decade of International Law,

Having considered also the report of the Secretary-General, 3/

Concerned about the continuing relatively low incidence of expert representation from developing countries at sessions of the Commission and particularly of its working groups during recent years, due in part to inadequate resources to finance the travel of such experts,

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2/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17).

3/ A/48/296.

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session;

2. Welcomes the ongoing work of the Commission and appreciates the many proposals on possible future work made during the Congress on International Trade Law of the United Nations Commission on International Trade Law, held in New York from 18 to 22 May 1992 and, in this connection:

(a) Welcomes the decision of the Commission to request the secretariat to commence work in preparation of guidelines for pre-hearing conferences in arbitral proceedings;

(b) Also welcomes the decision of the Commission to continue considering the other proposals made during the Congress as part of its future programme of work;

3. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law and, in this connection, recommends that the Commission, through its secretariat, continue to maintain close cooperation with the other intergovernmental and non-governmental organizations, including regional organizations, active in the field of international trade law;

4. Also reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia to provide such training and assistance, and, in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars in Bangkok; Jakarta; Lahore, Pakistan; Colombo; Dhaka; Kiev; Warsaw; and Rogaska Slatina, Slovenia, and for assisting the Pacific Economic Cooperation Council with its initiative to promote harmonization of international trade law in the Asia-Pacific region, and to the Governments whose contributions enabled the seminars to take place;

(b) Urges Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the trust fund for the United Nations Commission on International Trade Law symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

(c) Appeals to the United Nations Development Programme and other United Nations bodies responsible for development assistance to support the Commission's training and technical assistance programme and to cooperate and coordinate their activities with those of the Commission;

5. Requests the Secretary-General, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to establish a separate trust fund for the Commission to grant travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

6. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the forty-eighth session of the General Assembly on granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

7. Expresses its appreciation to the Commission for organizing the Fifth Symposium on International Trade Law of the United Nations Commission on International Trade Law at Vienna from 12 to 16 July 1993 during its twenty-sixth session;

8. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end invites States that have not yet done so to consider signing, ratifying or acceding to these conventions;

9. Requests the Secretary-General to submit a report on the implementation of paragraphs 5 and 6 of the present resolution to the General Assembly at its forty-ninth session.

DRAFT RESOLUTION II

Model Law on Procurement of Goods and Construction of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that procurement constitutes a large portion of public expenditure of most States,

Noting also that a model law on procurement establishing procedures designed to foster integrity, confidence, fairness and transparency in the procurement process will also promote economy, efficiency and competition in procurement and thus lead to increased economic development,

Being of the opinion that the establishment of a model law on procurement that is acceptable to States with different legal, social and economic systems contributes to the development of harmonious international economic relations,

Being convinced that the Model Law on Procurement of Goods and Construction of the United Nation Commission on International Trade Law 4/ will significantly assist all States, including developing countries and States whose economies are in transition, in enhancing their existing procurement laws and formulating procurement laws where none presently exist,

1. Takes note with satisfaction of the completion and adoption by the Commission of the Model Law on Procurement of Goods and Construction together with the Guide to Enactment of the Model Law; 5/

2. Recommends that, in view of the desirability of improvement and uniformity of the laws of procurement, States give favourable consideration to the Model Law when they enact or revise their procurement laws;

3. Recommends also that all efforts be made to ensure that the Model Law together with the Guide to Enactment become generally known and available.

DRAFT RESOLUTION III

United Nations Convention on the Carriage of Good by Sea, 1978 (Hamburg Rules)

The General Assembly,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest, and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Recalling the entry into force, on 1 November 1992, of the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules), 6/

4/ See Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17), chap. II.

5/ Ibid., paras. 218-258.

6/ Official Records of the United Nations Conference on the Carriage of Goods by Sea, Hamburg, 6-31 March 1978 (United Nations publication, Sales No. E.80.VIII.1), document A/CONF.89/13, annex I.

1. Invites all States to consider becoming parties to the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules);

2. Requests the Secretary-General to continue to make increased efforts to promote wider adherence to the Convention.